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Seattle, WA 98104 1487

Washington State
Department of Transportation

Sid Morrison, Secretary of Transportation
Paul L. Green, Director and Chief Executive Officer

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JUL 22 1998
JLARC

July 20, 1998

Mr. Ron Perry
Acting Legislative Auditor
P.O. Box 40910
Olympia, WA 98504-0910

Dear Ron Perry:

Thank you for the opportunity to respond to the update of recommendations 25, 26, and 27 concerning privatization or public/private partnership issues. The new recommendation 25 represents a major change in wording. It still seems to focus on the same issue of seeking legislation to remove restrictions on private ferry operator's pay scales or place of operation. We are therefore not requesting a modification of our original response. The new recommendation 26 changes the concept of "providing service" to being "a partner in the provision of service" for the international route and passenger-only service. There is no need to modify our existing response. The new recommendation 27 changes the concept from privatization to public/private partnership. We find this change to support our original recommendation therefore requiring no modification.

Again thank you for the opportunity to review and comment on the audit recommendation changes. We look forward to your August 3, 1998 meeting and the opportunity for Committee reaction.

Sincerely,

Michael T. McCarthy
Deputy Director

cc: Dick Thompson
Sid Morrison
Don Griffith
Chris Rose
Janis Lien
Marvin Schurke
Leo Donovan
Ken Mathias



STATE OF WASHINGTON
TRANSPORTATION COMMISSION

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June 10, 1998

Ms. Cathy McMorris, Chair
Joint Legislative Audit and Review Committee
PO Box 40600
Olympia, WA 98504

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JUN 11 1998

JLARC

Dear Ms. McMorris:

The Washington State Ferry System has been requested to respond to the twenty-eight audit recommendations prepared by Booz-Allen and Hamilton, Inc. for the Joint Legislative Audit and Review Committee (JLARC). As part of the Commission normal oversight activities, the departmental response attached to this letter has been reviewed by the Commission. The purpose of this correspondence is to formally transmit the audit response in compliance with the JLARC letter of June 1, 1998 and forward some summary observations.

From the outset of the anticipated audit, the Department of Transportation and Washington State Ferries have been open and cooperative to the audit process. The Commission appreciates and expects this departmental approach to external audits. Frankly, professional qualified resources to conduct reviews of this scope are not usually available. Moreover, an appropriate focus on effectiveness, efficiency, and accountability of our programs conducted in the larger context of program requirements is a complex undertaking. Too often what is characterized as program evaluation(s) is no more than subjective opinion based upon a limited interaction with the Department. Booz-Allen and Hamilton, Inc. is a firm of national reputation which has had previous exposure to our ferry system and extensive exposure to like properties. They had resources capable of reviewing the ferry system. We expected and are pleased to read the comprehensive report provided JLARC in response to the legislative mandate. The report and its related recommendations affords an opportunity for both Washington State Ferries and the Commission to continue efforts to improve the component tasks that result in the maintenance of a quality ferry service for our traveling public. We intend to take advantage of the investment made by the legislature in funding this review.

In reviewing the report we have characterized the twenty eight findings into three broad categories. The first group of recommendations are oriented at achieving savings. Although these savings may be elusive and difficult to achieve, we are committed to try.

- Recommendation 5: Limiting overtime to 150%
- Recommendation 6: Remove mandatory cost of living adjustments
- Recommendation 7: Review MEC
- Recommendation 9: Reduce non-revenue vessel trips
- Recommendation 12: Install a maintenance management system
- Recommendation 13: Improve staffing control at Eagle Harbor

Specific legislative action will be necessary to implement recommendations 5, 6, 7, and 12.

The second broad category includes recommendations requiring additional investments. These are:

(1) Employees

- Recommendation 2: Training
- Recommendation 4: Compensation studies

It is realized that there is limited human resource staff expected to accomplish these tasks.

(2) Technology

- Recommendation 8: Further refinement of the plan and its implied long term development of automated management tools
- Recommendation 12: The maintenance management system

(3) Terminal Facilities

- Recommendation 24: Development of life cycle cost model, but more importantly the documentation of inadequate existing terminal capacity and preservation activities

(4) Vessels

- Recommendation 14: Normalization of a steel maintenance program and specific five vessels dry-docking review, and a series of administrative improvement to our contractual and construction procedures
- Recommendations 15, 16, 17, 18, 19, and 20: All of which relate to the contracting process.

(5) Operational Activities

- Recommendation 10: Extension of the International Safety Management program to our domestic fleet
- Recommendation 11: Further expansion of emergency procedures for terminals and vessels

(6) Planning Products

- Recommendation 21: An expanded strategic corporate plan
- Recommendation 22: Updating origin and destination data
- Recommendation 23: A clean slate planning exercise

It is our intent to begin to close the investment gaps documented in this report through the 1999-01 operational and capital budget request for the Washington State Ferries.

The report also contained six more recommendations not addressed above. Two of these deal directly with Governance and the Executive Management structure of the Ferry System. These are Recommendations 1 and 3. We are interested in pursuing these issues. The issue of

Ms. Cathy McMorris, Chair
June 10, 1998
Page 3

privatization is contained in Recommendations 25, 26, 27, and 28. It would be our intent to seek input from the Legislature and the Governor before pursuing final solutions to these recommendations. Under the existing 10 mile rule the Transportation Commission reviews departmental input to the Utilities and Transportation Commission. We do not object to private service that is complementary to our existing service or does not directly compete with our tariff revenue base.

In closing, we want to thank your Committee for its attention to our programs and look forward to the continued opportunities for improvements.

Sincerely,

A handwritten signature in cursive script, reading "Alice B. Tawressey".

Alice Tawressey
Chair

cc: Sid Morrison
Paul Green
Governor Locke
Jennifer Joly
Representative Karen Schmidt
Senator Eugene Prince
Vicki Fabre

Washington State Ferry System Performance Audit

Summary of Recommendations and Responses

1. Evaluate the current management structure system and identify options to reduce decision cycle time, clarify accountability and responsibility, eliminate conflict, and facilitate access to capital.

Legislation Required:	Yes	<u>WSF</u> Yes
Fiscal Impact:	None	Unknown
Completion Date:	2000	2000

Response:

Partially Concur. The Commission will review with WSF issues brought forth in the management structure recommendation to identify opportunities for improvement.

2. Develop an Employee Training and Development System.

Legislation Required:	No	<u>WSF</u> No
Fiscal Impact:	Moderate cost to develop and implement	Significant
Completion Date:	1999 for planning; 2001 for implementing	

Response:

Partially Concur. Washington State Ferries has initiated a comprehensive training needs assessment in March of 1998. This is the first step in the development of an inventory of existing training and identification of unmet needs. We anticipate providing a decision package of training options for the Commission's approval. During next biennium additional needs identification will continue for those areas not completed. While lower training cost strategies will be recommended, the overall total investment of dollars will have to grow.

3. Implement recommended organization structure to right the span-of-control situation, create succession planning opportunities, direct focus on "key" strategic areas, and alleviate communication and departmental gaps within the organization.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	None	Unknown
Completion Date:	2000	2002

Response:

Partially Concur. Recommendation 1 needs to be completed prior to modification of the IT position and perhaps the Human Resources position. Recommendation 4 needs to be completed prior to establishing new positions. In the interim limited staffing adjustments that complement the ultimate structure can be implemented.

4. Conduct a comprehensive job classification and compensation study prior to the next biennium to support collective bargaining negotiations.

		<u>WSF</u>
Legislation Required:	No	Yes
Fiscal Impact:	Moderate cost depending on scope and comprehensiveness of study	Unknown
Completion Date:	1999	1999

Response:

Concur. The present procedure, prescribed by statute, wherein the Marine Employees Commission (MEC) prepares a survey covering bargaining unit positions is in need of enhancement as it is presently inadequate. An option could be to reassign this task to a commercial firm specializing in compensation surveys. In addition, a separate survey covering all other job categories including senior management and executives should be conducted. This raises policy issues regarding integrated state government compensation programs and should incorporate the results of recommendation 1. The cost of the studies may exceed historical expenditure levels due to increased complexity and scope.

5. Align WSF employee overtime policy to that of State Employees, where basic overtime rates will be no greater than 150 percent of base wage.

		<u>WSF</u>
Legislation Required:	WAC 356-05-231	Yes
Fiscal Impact:	\$1.1 million annual savings	\$1.1 million annual savings
Completion Date:	Next bargaining cycle	Next bargaining cycle

Response:

Partially Concur. WSF believes that good business practices should strive to reduce overtime costs. Existing agreements are a result of collective bargaining and, therefore, represent contractual obligations. Legislative action before the next bargaining cycle would be required in order to ensure modification of the current procedure.

6. **Remove mandatory cost-of living adjustment for WSF employees resulting from legislative action, and assign responsibility to WSF and WSDOT management to achieve legislative limits on appropriations.**

		<u>WSF</u>
Legislation Required:	Modify appropriations act language	Yes
Fiscal Impact:	Unknown	Unknown
Completion Date:	1999	Prior to next collective bargaining cycle

Response:

Concur. Legislative action would be required to restore the allocation of compensation increases to the pre-1997 MEC ruling procedure. The current ruling requires WSF to allocate the 1997-99 compensation increase for salaries automatically, (effective July 1, 1997). The result is that these increases are granted before the labor negotiations are concluded and thus impairs WSF's ability to bargain.

7. **Evaluate the benefits of improving current MEC services or placing WSF employees and labor organizations under the jurisdiction of Public Employee Relations Commission (PERC) or a similar organization.**

		<u>WSF</u>
Legislation Required:	WSF	Yes
Fiscal Impact:	None to annual savings up to \$170,000	Unknown
Completion Date:	1999	1999

Response:

Concur. WSF needs a totally objective, balanced, and credible third party mechanism; either a realigned, reshaped MEC or PERC as suggested by the report recommendation. If MEC is replaced by PERC, legislation would be required. The fiscal impact evaluation should be evaluated by MEC not WSF.

8. **Develop an Information Technology Plan that leverages current system initiatives, identifies future information and data requirements, leverages technology to achieve operational and organizational efficiencies, and supports management decision making and operational monitoring.**

Legislation Required:	No	<u>WSF</u> No
Fiscal Impact:	Moderate cost to develop and implement; potential savings high	Unknown
Completion Date:	2000 or sooner	2001

Response:

Concur. WSF plans to continue to augment the Information Technology Contributions Towards Momentum report with more detailed technology planning including specific projects, documented deliverables, required resources, and timelines. While much of this work can be accomplished by 1999, additional staffing resources are necessary to complete the task.

9. Analyze vessel deployment strategies to reduce or eliminate the frequency of non-revenue-generating boat moves and refueling operations.

Legislation Required:	No	<u>WSF</u> No
Fiscal Impact:	Up to \$500,000 annual savings	Unknown
Completion Date:	2001	2001

Response:

Partially Concur. WSF will continue to analyze the number and type of non-generating boat moves for potential savings. We do not concur that \$500,000 annual savings can be realized by 2001. The ability to reduce operating costs and eliminate trips may require capital investments which requires a long lead-time and legislative budget authority. We do intend to intensify crew schedule reviews to optimize customer service.

10. Extend the International Safety Management (ISM) effort to include WSF domestic routes and terminal operations, including the development of documentation-defining policies, procedures, and responsibility across the WSF organization.

Legislation Required:	No	<u>WSF</u> No
Fiscal Impact:	Moderate costs to implement	Significant
Completion Date:	1998 for International route 2000 for Domestic service	1998 fir International route 2001 for Domestic service

Response:

Partially concur. WSF fully agrees that extension of ISM practices to the domestic routes will have great benefit to multiple operational aspects of the business. However, the level of effort to accomplish this will require legislative budgetary authority as well as time beyond the suggested 1998 completion date. Since the investment options are extensive, the Commission will need to review proposals through the decision package process. Actual suggested implementation cannot occur until completion of the 1999-2001 biennium.

- 11. Develop emergency response and contingency plans for WSF, vessels, and terminals. Documents should address field operations, management and support, and communications.**

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	None	Unknown
Completion Date:	2000	2001

Response:

Concur. The Commission has established a Blue Ribbon Panel to review vessel safety issues. The report, expected in November of 1998, may influence the future implementation of this proposal as well as recommendation 10.

- 12. Accelerate implementation of a Maintenance Management System (MMS) and redirect current MMS efforts to validate system functionality requirements with users and identify additional development costs.**

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	\$2 million annual savings; \$1.5 million investment	Unknown
Completion Date:	2000	2001

Response:

Concur. Efforts to develop a proposal for next biennium are underway. While we are eager to work on this system, all available computer support resources are currently assigned to Year 2000 compliance. Actual completion of this task is dependent upon approval of a budget decision package for the 99-01 biennium. The report's cost estimate of \$1.5 million for the alternative (purchasing an off the shelf system) would place this project under DIS oversight and require Legislative authority. Any expected savings, yet to be established, would follow full implementation and are not projected to occur prior to the 2001-2003 biennium.

13. Restructure the Eagle Harbor Repair Facility (EHRF) operation addressing facilities, staffing levels, workload management, and job cost-estimating processes.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Up to \$1.1 million annual savings; Investment unknown	Unknown
Completion Date:	1999	2001

Response:

Partially Concur. Restructuring of EHRF operations addressing facilities, staffing, workload management and processes to better service the needs of WSF operations is an established WSF goal requiring extensive planning as well as capital investment. During the 1999-01 biennium, we expect to establish a facility plan subject to long-term funding; a job costing system is dependent on an improved maintenance management system and, therefore, recommendation 12. We can begin to review staff utilization and look for annual savings estimated by the auditor to be \$1.1 million. We would not envision actual cost reductions in the near-term as the workload requirements will be growing significantly in the next few years. It does afford an opportunity for cost avoidance.

14. Augment Maintenance Management System (to be implemented) with current steel monitoring into a formal Steel Maintenance Program - including systematic monitoring, trend analysis, and coatings strategy.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Unknown	Unknown
Completion Date:	High priority for FY 1999	1999

Response:

Concur. WSF fully agrees that the existing Steel Maintenance Program needs to be formalized in a systematic program. WSF will survey all of its one-compartment ferries as described in the report when the vessels are due for routine dry-docking. We do not intend to establish a roving paint gang given our customer service requirements.

15. Continue implementation of other recommendations made by the 1991 Booz-Allen report that have not been fulfilled. Such recommendations include: standardizing the work scoping process, developing a procedure for estimating planned growth, formalizing the asbestos abatement program and establishing a formal pre-furbishment (preservation) inspection procedure.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Unknown	Unknown
Completion Date:	2000	2000

Response:

Concur.

16. **Modify statutes controlling ferry contracting practices to allow WSF more discretion and flexibility in procurement/contracting policy.**

		<u>WSF</u>
Legislation Required:	Yes	Yes
Fiscal Impact:	Unknown	Unknown
Completion Date:	1999	1999

Response:

Concur. WSF will work with the Attorney General's Office to draft appropriate legislation for introduction at the next legislative session in 1999. This recommendation is particularly important for the construction of new double-ended ferries.

17. **Assign a Contract Administrator from the Contracts/Legal Department to new construction, renovation and preservation contracts over \$10 million.**

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Potential Capital savings	Unknown
Completion Date:	1998	1998

Response:

Concur. We will seek Commission approval for funding and FTE authorization for this new position which will require affirmative legislative action.

18. to 20.

Modify the standard contract language on Contract Problem Reports to require timely submission of proposals to accomplish Indefinite Quantity Work (IQW) and reduce the amount of pre-planned IQW included in the contract award to no more than 10% of the base work package. Increase the length of time between contract award and ferry delivery.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Potential Capital Savings	Unknown
Completion Date:	1999	1999

21. Build from WSF's corporate strategy to develop a strategic plan detailing corporate goals/objective, actions and implementation steps, timing of actions, department and individual responsibilities, costs/benefits, and broader service standards.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	None	Unknown
Completion Date:	2000	1999

Response:

Concur. This recommendation results in an on-going activity that will continue to evolve. The basic framework can be put in place by 1999. WSF is actively participating in the development of the Department's Strategic Plan and the Washington Transportation Plan.

22. Validate the Current Travel Forecast Model (TFM) forecast with a new origin destination (O/D) study and augment the current supply side analysis with demand elasticity and fleet optimization analysis.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	\$625,000 expenditure	\$625,000
Completion Date:	1999	2000

Response:

Concur. WSF is planning to administer an origin-destination survey in May 1999 incorporating a demand elasticity analysis. This study will be utilized in updating the travel forecast model and fleet optimization analysis. Estimated fiscal impact over two biennia is \$625,000 and completion estimated for the end of 1999 but could slide a few months. This will require budgetary approval by the Commission and Legislature.

23. Conduct a "clean slate" fleet and service optimization study to identify and evaluate benefits-costs of an unconstrained fleet, and compare to the current 20-year plan.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Potential operation- al and capital savings	Unknown
Completion Date:	2000	2000

Response:

Partially Concur. The Commission is committed to taking advantage of new technology and process improvements and continues to be open to "clean slate" optimization studies for these elements. The Commission does not want WSF engaged in academic "clean slate" service planning exercises, given existing jurisdictional and permitting constraints facing system expansion or relocation.

24. Develop a Life-Cycle-Cost-Model (LCCM) for terminals.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Minimal	Unknown
Completion Date:	2000	2001

Response:

Concur. A LCCM already exists for the terminals however the coverage is limited to terminal bridge structures. This program will be expanded to include non-bridge structures and converted to the same format and electronic medium as the vessel LCCM. It does require a dedicated staff position within terminal engineering and, therefore, Commission and legislative budget approval.

25. Modify current legislation to permit private ferry operations in Puget Sound without restrictions on pay scales or place of operations.

		<u>WSF</u>
Legislation Required:	Yes	RCW 47.64.090 & RCW 47.60.120
Fiscal Impact:	None	Unknown
Completion Date:	1999	1999

Response:

No comment. This recommendation has major policy implications beyond the purview of WSF.

26. Conduct a preliminary Request for Qualifications (RFQ) or FP process to assess current interest and/or ability of the private sector to provide POF and/or international service.

		<u>WSF</u>
Legislation Required:	No	Yes
Fiscal Impact:	None	Unknown
Completion Date:	2000	2000

Response:

Partially Concur. The time line for this effort should await legislative resolution of recommendation 25. Without new legislative direction, the recommendation is not valid. The private sector needs to understand the new statutory opportunities in order to offer innovative solutions.

27. Establish definitive goals for privatization of international service.

		<u>WSF</u>
Legislation Required:	No	Yes
Fiscal Impact:	None	Unknown
Completion Date:	1999	1999

Response:

Concur. The Commission will work with stake holders and ferry system to develop a set of goals and performance measures to which will assist in the implementation and evaluation of potential privatization (see attached Commission Policy).

28. Evaluate feasibility and merits of a summer season international service.

		<u>WSF</u>
Legislation Required:	No	No
Fiscal Impact:	Study can be done within existing resources; Potential for future savings	Unknown
Completion Date:	2001	1998

Response:

Do not concur. The Commission has directed WSF to help build the route utilization during Fall, Winter and Spring. This recommendation attempts to reverse this decision. It should be noted a review of stopping service during the off-season has been completed at least four time since 1990.

July 22, 1998

Ron Perry
Joint Legislative Review Committee
506 16th Avenue SE
Olympia, Washington 98501-2323

Dear Mr. Perry:

Thank you for your letter of July 17, 1998. We have reviewed the latest amendments to the recommendations and find that they do not affect our areas of interest. We thus have nothing to add to our previous response.

Very truly yours,

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

MLS:mcb

cc: Chairperson Marilyn Glenn Sayan
Commissioner Sam Kinville
Commissioner Joseph Duffy

June 9, 1998

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JUN - 9 1998

JLARC

Mr. Ron Perry
Acting Legislative Auditor
Joint Legislative Audit and Review Committee
PO Box 40910
Olympia, Washington 98504-0910

Re: Recommendation to abolish Marine Employees Commission and
transfer jurisdiction to Public Employment Relations Commission

Dear Mr. Perry:

This is in response to your letter dated June 2, 1998, requesting the formal response of this agency to the JLARC performance audit on the Washington State Ferries system (WSF).

Please be advised that our only previous contacts on this subject were by means of a telephone call from Bob Thomas of the JLARC staff, documents provided by Mr. Thomas following that telephone call, and my May 8, 1998 letter response to Mr. Thomas. We have not been contacted by Booz-Allen & Hamilton and, in fact, first learned of the JLARC audit by viewing a broadcast on TVW. The Public Employment Relations Commission (PERC) does, however, have a keen interest in having adequate resources for the task, if the Marine Employees Commission (MEC) is abolished and its jurisdiction over WSF labor relations is transferred to PERC.

<u>RECOMMENDATION</u>	<u>AGENCY POSITION</u>	<u>COMMENTS</u>
Recommendation 7: Evaluate benefits of improving current MEC services or placing WSF employees and labor organizations under the jurisdiction of Public Employment Relations Commission (PERC)	No position (see comment).	The policy question of whether to implement a transfer of jurisdiction is for the Legislature and Governor to decide, and PERC takes no position on that question. If a transfer is adopted, PERC will put forth its best effort to perform the assigned tasks, under our charter to be "uniform ... impartial ... efficient and expert" in administering public sector labor relations.

<u>RECOMMENDATION</u>	<u>AGENCY POSITION</u>	<u>COMMENTS</u>
Recommendation 7: Fiscal Impact: None to annual savings up to \$170,000.	PERC lacks sufficient information to take a formal position (see comment).	<p>PERC has not been provided with detailed information about MEC budget and expenditure patterns, which would be needed to assess possible savings by eliminating duplications, etc.</p> <p>PERC has no information about the classification(s) and salary(-ies) of any MEC staff to be transferred to PERC, about any existing backlog of cases to be transferred to PERC, or about the annual case intake of the MEC.</p> <p>PERC could not absorb the MEC workload without additional staff. Costs for the <i>minimum</i> configuration of added staff (1 FTE professional + .25 FTE support) would be \$210,000 for the 1999-2001 biennium.</p>

We note that the preliminary report contains two ambiguous statements at page IV-20:

- Although vague in the formal recommendations, the discussion of a possible "re-engineering" of the MEC in the explanation under "G" on page IV-20 of the preliminary report states:

PERC may offer advisory services to MEC to identify areas of opportunity for improvement and appropriate implementation steps, operating practices, and policies.

PERC has no indication of the scope of the contemplated task, or of the PERC resources which would be needed to fulfill that concept.

- The \$170,000 figure used in Recommendation 7 appears to be the result of mixing state fiscal terminology. A footnote on page IV-20 of the preliminary report states: "The *biennial budget* for MEC is approximately \$340,000 *annually*."

PERC was created, effective January 1, 1976, to consolidate the administration of six separate state collective bargaining laws, under a charter to be "uniform ... impartial ... efficient and expert". RCW 41.58.005(1). PERC provides dispute resolution services generally similar to those provided by the National Labor Relations Board and Federal Mediation and Conciliation Service. From its outset, PERC had a much broader jurisdiction than just WSF, including:

- Community college academic faculties (Chapter 28B.52 RCW);
- Cities, counties, and other local government units (Chapter 41.56 RCW);
- K-12 school districts for both their "classified" employees (Chapter 41.56 RCW) and their "certificated" employees (Chapter 41.59 RCW);
- Private sector employers (Chapter 49.08 RCW);
- WSF (Chapter 47.64 RCW); and
- Port districts (Chapter 53.18 RCW, since dovetailed with Chapter 41.56 RCW).

While jurisdiction over WSF was transferred to the MEC in 1983, PERC's jurisdiction has been expanded in other areas since 1976, to include:

- Public utility districts (Chapter 54.04 RCW dovetailed with Chapter 41.56 RCW);
- University of Washington Print Shop (added to Chapter 41.56 RCW in 1987);
- Washington State Patrol troopers (added to Chapter 41.56 RCW in 1987);
- District courts (added to Chapter 41.56 RCW in 1989);
- Superior courts (added to Chapter 41.56 RCW in 1992); and
- Higher education bargaining units which exercise an "option" for full-scope bargaining in place of the state civil service system (added to Chapter 41.56 RCW in 1993).

Additionally, as you may recall, further expansion of PERC's jurisdiction to include state "civil service" employees was proposed by Governor Lowry (in 1993-1996) and by Governor Locke (in 1998).

If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

MLS:mcb

cc: Commission members



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JUN 11 1998

JLARC

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION

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P.O. Box 40902
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(360) 586-6354*

June 10, 1998

Ron Perry
Acting Legislative Auditor
Joint Legislative Audit and Review Committee
506 - 16th Avenue SE
P.O. Box 40910
Olympia, WA 98504-0910

RE: PROPOSED FINAL REPORT
WSF/DOT PERFORMANCE AUDIT

Dear Mr. Perry:

Thank you for the opportunity to respond to the Washington State Ferry Performance Audit Proposed Final Report dated June 2, 1998. Pursuant to your request, MEC's responses to the study's specific recommendations are attached hereto in the requested format.

The MEC presents the following information in further support of its response to the JLARC WSF/DOT Performance Audit Report.

Background

The Marine Employees' Commission is a three-member labor board created in 1981 to carry out the public policy of the State of Washington that declares that "sound labor relations are essential to the development of a ferry system which will best serve the interests of the people of the state." Chapter 47.64 RCW provides the foundation for collective bargaining by and between state ferry management and state ferry employees and their exclusive bargaining representatives. As such, members of the Marine Employees' Commission hear and decide disputes brought before it by management and labor representatives. In addition, the MEC conducts a biennial salary survey for the parties to collective bargaining agreements which compares the wages, hours, employee benefits and conditions of employment of involved ferry employees with those of public and private sector employees in states along the west coast, including Alaska, and in British Columbia, doing directly comparable work.

Each of the current part-time Commission members has an extensive professional background in labor or maritime law. They are appointed by the governor and serve five-year terms.



Disputes, generally in the form of grievance arbitration requests or charges of unfair labor practices, are quickly scheduled for settlement conference and, if necessary, an adjudicative hearing. Those hearings are held pursuant to the Administrative Procedures Act, chapter 34.05 RCW. The public policy expressed in statute and in rule emphasizes the state's desire that disputes, if possible, be settled prior to a more costly adjudicative hearing. Toward that end, the MEC has received the commitment of the parties to the seven collective bargaining agreements, that once a dispute is filed, they will quickly meet and attempt to settle their differences. Up until recently, over 80 percent of the matters filed with the agency were settled prior to hearing. When a case does go to hearing, MEC is able to render a decision within a relatively short amount of time after the close of the hearing. Currently, from the time a case is filed with the MEC until a final decision is issued, it takes an average of 5.9 months. We are told this is "lightening speed" compared to similar adjudicatory agencies. It should also be noted that on only one occasion was a decision issued by the Commission overturned by a Superior Court Judge. In fact, in the past 15 years, MEC has had only a handful of its decisions challenged by any party.

The MEC meets once a month with ferry system management and labor union representatives, and others, to discuss generally the current status of on-going disputes, contract negotiations, and other matters of interest to the parties. It is MEC's goal that by regularly conducting these "roundtable" meetings with the parties, overall relationships will be strengthened, and coincidentally other disputes can be circumvented through open discussion and more relaxed communication.

In the recent past, the MEC has experienced many more disputes being filed before it. In particular, cases have charged the ferry system with unfair labor practices in violation of RCW 47.64.130. By far the majority of these disputes, filed on behalf of virtually every ferry employee labor union, came to the MEC alleging that one management representative in particular had refused to bargain as required by chapter 47.64 RCW. Some of these charges were the result of very contentious and protracted negotiations between management and labor representatives for the 1995-1997 collective bargaining agreements. MEC's efforts to bring the parties together to negotiate settlements in these matters were not as successful as previous efforts. Many more of those disputes were heard and decided by the Commission. A majority of the decisions, which were entered based upon the facts entered in the hearing record and based upon legal precepts, concluded that by its actions, the ferry system had committed unfair labor practices in violation of chapter 47.64. In the meantime, in April 1997, for the first time since the enactment of the statute, all contracts between the ferry system and labor organizations were current. Those contracts, which expired on June 30, 1997, are currently under negotiation once again by the parties. The management representative who was the focus of many of the disputes filed by labor representatives has now left the Washington State Ferries. MEC is hopeful that the current labor relations' staff at Washington State Ferries and the labor organizations will forge stronger, more cooperative relationships, thus diminishing the need for the MEC to hear and decide disputes between the parties.

The Booz-Allen Report presents a lopsided view of the causes of strained labor relations between the Washington State Ferries and state employee labor unions.

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MEC was enthusiastic to cooperate with the JLARC performance audit of the Department of Transportation's Marine Division. MEC had observed growing erosion of the bargaining relationships between WSF and the state ferry employee labor organizations which resulted in an increased number of disputes filed before us. Some of those disputes stemmed from the high rate of turnover of WSF management noted by the audit report. In November 1997, the MEC Director met initially with the consultant appointed by JLARC, Eugene Matt, of Matt & Associates, to discuss the current status of labor relations at the Washington State Ferries. When Mr. Matt came to our office and spoke with MEC Director Janis Lien, he indicated that he would return after his vacation in December to discuss further some of the concerns she had identified. In addition, he was to review MEC's docket of disputes to get an understanding of the issues being litigated by the parties. Ms. Lien had previously provided a JLARC consultant with the names and telephone numbers labor representatives who could give their opinions on the status of labor relations to balance the perspective of the information to be presented to the JLARC. During the November meeting, she urged Mr. Matt to speak to labor representatives in addition to his discussions with MEC and WSF. On one occasion after this meeting, upon his request, Ms. Lien provided Mr. Matt with an in-house index that summarized the disputes that had been decided by the MEC by topic. She explained to him that this was an in-house document. The MEC has several other detailed case dockets as well as meticulously maintained case files kept on each and every dispute filed before the MEC. Ms. Lien offered to go over the dockets with Mr. Matt, specifically to discuss the kinds of issues that had more recently been filed before the MEC. Unfortunately, there never was a return visit from Mr. Matt.

When MEC received a copy of the draft *Booz-Allen* Report in February 1998, it included serious allegations regarding MEC's lack of record keeping, MEC's bias against the ferry system, and categorized the MEC as unprofessional and ineffective. And, although Mr. Matt had not performed any kind of audit of the MEC itself, the report ultimately recommended that marine employees' labor relations functions be placed under the Public Employment Relations Commission.

Booz-Allen gave the MEC an opportunity to respond to the draft report. The Commission's comments were previously provided to JLARC. In several instances, the MEC concurred with the *Booz Allen* Report. However, MEC was very disappointed with the less than ambitious attempt to present an unbiased view of the causes of the strained relationships between management and labor at the state ferry system. Conclusions seemed to be based exclusively on discussions with ferries' management. No attempt was made to balance management's comments with the perspective of the neutral labor board that has oversight of the parties' relationships or with discussions with labor union representatives. In our opinion, it would be a serious oversight for JLARC to accept the report and recommendations of the auditor without questioning the efforts of Mr. Matt to present a more comprehensive report based on discussions with persons involved other than WSF management.

MEC would like to report on a number of initiatives the agency has undertaken that collaterally address issues raised by the *Booz Allen* Report. MEC has initiated discussions with its stakeholders (here, the ferry system management and labor union representatives) to discuss ways in which we can improve our prehearing processes. This discussion emanated from a discussion at the MEC's January 1998 monthly meeting at which Director Lien reported the

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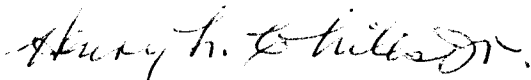
half-yearly statistics on the average length of time between the filing of a dispute and its final disposition by the Commission. The stakeholders present agreed to meet with MEC staff to discuss ways in which the current processes could be improved. At that meeting the parties praised the MEC's efforts to bring disputants together swiftly and affirmatively to settle their differences. The discussion was candid and productive. Proposals generated at subsequent meetings are being formulated for consideration by the Commission.

MEC has also begun discussions with its stakeholders on a request for an additional appropriation in its 1999-2001 budget to contract with a private consulting firm to review the process and methods used in the biennial salary survey. This proposal is timely for a number of reasons. First, it has been ten years since the legislature authorized funds for MEC to contract with a private management consulting firm to study the need to expand the geographical scope of the survey and to propose a survey model to the agency. Second, the ferry system's collective bargaining agreements were briefly current in 1997. For the first time in many years, ferries management and several of the major unions in their interest negotiations are utilizing a current salary survey report. MEC views this as an opportune time to ask for the parties' feedback on the usefulness of the survey results in their interest negotiations. Heretofore, contract negotiations were so far behind, the surveys were much less useful to the parties. Their comments will be very useful to the MEC in determining if or how the survey processes should be improved.

To date, 1998 has been a much less contentious year for labor relations between ferry system management and the labor unions. MEC has detected a renewed commitment by all the parties to work hard to settle disputes prior to an adjudicatory hearing. In concert with that commitment, the MEC is conducting an on-going dialogue with its stakeholders to address ways in which the Commission can assist the parties in their efforts. All of these efforts will serve to strengthen these very aged bargaining relationships. MEC looks forward to continuing its mission to promote bilateral collective bargaining negotiations between the parties and thereby keeping "peace on the waterfront."

We thank you for the opportunity to present our views on the DOT performance audit. We are available to you if you have any questions. Please feel free to contact MEC Director Janis Lien at our office in Olympia.

Sincerely,



Henry L. Chiles, Jr.
Chairman

Attachment

CC: The Honorable Karen Schmidt, Chairman, LTC
The Honorable Eugene Prince, Chairman, Senate Transportation Committee
The Honorable Gary Locke, Governor

RECOMMENDATION	MEC'S RESPONSE	COMMENTS
Rec. 7A	Concur	
Rec. 7B	Concur	
Rec. 7C	Partially concur	<p>This recommendation encompasses two separate issues. The MEC salary survey is by law limited in scope. Pursuant to RCW 47.64.220, the survey compares "wages, hours, employee benefits and conditions of employment of involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska and in British Columbia doing directly comparable, but not necessarily identical work" (Emphasis added) RCW 47.64.011 defines "ferry employee" as "any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and <u>does not include</u> an exempt employee pursuant to RCW 41.06.079. (Emphasis added) The survey is conducted for the parties to WSF labor agreements. Contrary to the conclusion of the auditor, MEC has always surveyed all bargaining unit jobs.</p> <p>WSF management should oversee the conduct of their own comprehensive job classification and compensation study to assist them in retaining qualified management personnel and others not covered by collective bargaining laws. The auditor's proposal to include all jobs in the MEC survey far exceeds the scope of MEC chapter 47.64 RCW.</p>
Rec. 7D	N/A	
Rec. 7E	Do not concur	<p>No action is necessary. Any change by the legislature would intrude on long-established collective bargaining relationships. Current rates were agreed to by WSF management and labor representatives at the bargaining table. Any change thereto must be agreed to by the parties in the normal course of collective bargaining.</p>
Rec. 7F	Do not concur	<p>Through the years, the legislature has maintained fair and appropriate cost of living adjustments for all state employees, including state ferry employees. Contrary to the auditor's findings, currently there is room for the parties to meet and bargaining about wage adjustments and other collective bargaining subjects. The agreement to pay legislatively authorized cost of living adjustments on the</p>

		<p>effective date was made at the bargaining table by WSF management and ferry employee organization representatives. MEC does not encourage any change to the current practice of the legislature granting cost of living adjustments.</p>
Rec. 7G	Do not concur	<p>In the early 1980's, the parties to WSF labor agreements had a brief, unsatisfactory experience under the jurisdiction of PERC. A Blue Ribbon Commission appointed by Governor John Spellman recommended, and the legislature concurred, that the parties would be best served by the re-establishment of the MEC in its present form. Since its reenactment in 1983, MEC has maintained labor peace at WSF. The parties agree that MEC provides for speedy resolution of disputes. Utilization of MEC as grievance arbitrators is a decision made at the bargaining table. Virtually every ferry employee union as well as ferries' management has filed disputes before the Commission. Currently, a majority of those disputes are filed as unfair labor practice charges. MEC has a detailed process outlined in its WACs to determine whether facts asserted would constitute unfair labor practices if later found to be true at an adjudicatory proceeding. MEC's WACs mirror those adopted by PERC. Pursuant to the Administrative Procedures Act, the MEC must issue decisions based on findings of fact produced at hearing, and based on the law. Contrary to the auditor's finding, MEC in fact maintains meticulous case files and case dockets.</p> <p>The MEC has produced four salary survey reports since the legislature expanded the geographical scope of the survey in 1989. In 1997, for the first time in many years, WSF labor contracts were very briefly current, and therefore, ferries management and ferry employee unions were able to utilize a current salary survey in their interest negotiations. The MEC is taking this opportunity to discuss with its stakeholders the usefulness of the wage and benefit data in their negotiations. MEC has begun discussions with the parties about updating the conduct of the salary survey.</p>



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Building 7000 Capitol Mall, Olympia, WA 98504-0910

June 11, 1998

RECEIVED

JUN 11 1998

JLARC

Ron Perry, Acting Legislative Auditor
Joint Legislative Audit and Review Committee
506 16th Avenue SE
Post Office Box 40910
Olympia Washington 98504-0910

Dear Mr. Perry:

I am writing in response to your request for the Office of Financial Management's formal response to the revised preliminary report of the Department of Transportation Ferry System performance audit that was presented to the Joint Legislative Audit and Review Committee (JLARC) on March 13, 1998. It should be noted that our response reflects and acknowledges the briefing paper that the Department of Transportation (DOT) provided to the Legislative Transportation Committee on May 7, 1998.

The study recommendations can be summarized into three broad categories. The first category would include those recommendations that address administrative issues, including findings about the current governance system, employee training, organizational structure, etc. The second category could be characterized as those recommendations that are operational in nature. Operational recommendations include vessel deployment strategies, Steel Maintenance Program implementation, Eagle Harbor Repair Facility operations, etc. The third category would be those recommendations that address management/labor issues including salaries, privatization, and dispute resolution processes.

I am particularly encouraged by the study findings that relate to the accelerated implementation of a Maintenance Management System (MMS) and a more systematic and formal Steel Maintenance Program. The Washington State Ferries has operated the ferry system with a tradition of safety as a highest priority. Implementation of these recommendations, and a shift from refurbishment of vessels to a more thorough maintenance program, will help to continue this tradition more efficiently.

While I concur with the substance of most of the administrative and operational recommendations presented by the study, there seems to be some disagreement between the study consultant and the Department regarding implementation dates and fiscal impacts. These discrepancies should be

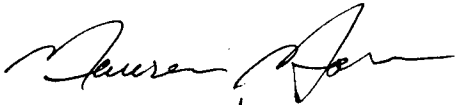
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addressed and resolved as part of the final report. I am also not able to concur with the study recommendations regarding labor/management issues. Because of the inherently complex and sensitive nature and considerable history of these issues, a thorough and thoughtful investigation that would include DOT, employees and their union representatives, and other key stakeholders is vital before proceeding with any changes. After such a dialogue and an examination of the merits of these recommendations it would then be necessary to determine whether legislation should be proposed.

Additionally, and as part of this dialogue, the currently forming Transportation Working Group, recently authorized by the Legislature to broadly review all aspects of transportation in this state, may be an appropriate forum for integration of these recommendations into a larger context.

I appreciate the opportunity to respond to the revised preliminary report. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Thompson", with a stylized flourish at the end.

Dick Thompson
Director

DT:DV:dh